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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.809 OF 2007
TO
CRIMINAL WRIT PETITION NO.816 OF 2007

Dr. Baban Shivram Kadam ... Petitioner

Vs.

The State of Maharashtra & Ors. ... Respondents

Mr. R.B. Mokashi i/b Mr. Samir Vaidya for the petitioner in all the petitions.

Ms. P.H. Kantharia, A.P.P. for the State in Writ Petition Nos.809 of 2007, 810 of 2007, 811 of 2007 and 812 of 2007.

Ms. S.D. Shinde, A.P.P. for the State in Writ Petition Nos.813 of 2007 and 814 of 2007.

Ms. U.V. Kejariwal, A.P.P. for the State in Writ Petition Nos.815 of 2007 and 816 of 2007.

CORAM : SMT. RANJANA DESAI &
D. B. BHOSALE, JJ.

DATED : 4TH MAY, 2007.

P.C.:-

The basic grievance made in these petitions is that the impugned order dated 5/9/2006 granting "C" Summary is passed without giving notice to the complainant and without hearing him. The petitioner is the complainant. The learned A.P.P. on instructions from Mr. Dhemare B.K., P.S.I. attached to

Borivali Police Station, states that no prior notice was given to the petitioner and the petitioner was not heard before the learned Magistrate. In view of this, we set aside the impugned order dated 5/9/2006. The learned Magistrate shall pass appropriate orders on report under section 173 of the Code of Criminal Procedure after giving notice to the complainant and after hearing the complainant. The learned Magistrate shall do so on 14/5/2007. Parties shall attend the court of learned Metropolitan Magistrate, 26th Court at Borivali, Mumbai on 14/5/2007 at 11.00 a.m. The petitions are disposed of in the aforestated terms.

[SMT. RANJANA DESAI, J.]

[D. B. BHOSALE, J.]